

## GENERAL LEGAL ISSUES

### Immigrant Status

**Residency status.** DCF shall report on residency status at judicial review.

- Whenever a child is adjudicated dependent, the department or community-based care provider shall determine whether the child is a citizen of the United States. In its first judicial review concerning the child, the department or community-based care provider shall report to the court whether the child is a citizen of the United States and, if not, the steps that have been taken to address the citizenship or residency status of the child. Services to children alleged to have been abused, neglected, or abandoned must be provided without regard to the citizenship of the child except where alienage or immigration status is explicitly set forth as a statutory condition of coverage or eligibility. § 39.5075(2).
- In any judicial review report provided to the court for a child for whom the court has granted the order described in § 39.5075(4), the court shall be advised of the status of the petition and application process concerning the child. § 39.5075(7).

**If the child is not a citizen.** DCF or the community-based care provider shall include in the case plan developed for the child a recommendation as to whether the permanency plan for the child will include remaining in the United States. If the case plan calls for the child to remain in the United States, and the child is in need of documentation to effectuate this plan, the department or community-based care provider must evaluate the child's case to determine whether the child may be eligible for special immigrant juvenile status under federal law. § 39.5075(3).

**If the child may be eligible for special immigrant juvenile status.** DCF or the community-based care provider shall petition the court for an order finding that the child meets the criteria for special immigrant juvenile status. The ruling of the court on this petition must include findings as to the express wishes of the child, if the child is able to express such wishes, and any other circumstances that would affect whether the best interests of the child would be served by applying for special immigrant juvenile status. § 39.5075(4).

#### **Petition for special immigrant juvenile status.**

- No later than 60 days after an order finding that the child is eligible for special immigrant juvenile status and that applying for this status is in the best interest of the child, the department or community-based care provider shall, directly or through volunteer or contracted legal services, file a petition for special immigrant juvenile status and the application for adjustment of status to the appropriate federal authorities on behalf of the child. § 39.5075(5).

If a petition and application have been filed and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's

jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under § 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday. § 39.5075(6).